

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT FRANK FIALHO,

Plaintiff,

v.

AULD, et al.,

Defendants.

No. 2:21-cv-1698 KJM DB P

ORDER

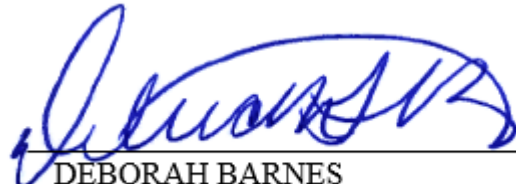
Plaintiff is a state prisoner proceeding with a civil rights action under 42 U.S.C. § 1983. Plaintiff alleges Eighth Amendment violations for defendants' conduct regarding the COVID-19 pandemic. In an order filed October 27, 2021, this court found plaintiff failed to state any cognizable claims for relief. Plaintiff was given the opportunity to file a first amended complaint within sixty days. Plaintiff was warned that if he failed to comply with the October 27 order, this court might recommend this action be dismissed.

Sixty days have passed and plaintiff has not filed a first amended complaint or otherwise responded to the court's October 27 order. Plaintiff will be given one more opportunity to file a first amended complaint. If he fails to file a timely first amended complaint, this court will recommend this action be dismissed without prejudice for plaintiff's failure to prosecute and failure to comply with court orders. See E.D. Cal. R. 110; Fed. R. Civ. P. 41.

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1 Accordingly, IT IS HEREBY ORDERED that within thirty (30) days of the filed date of  
2 this order, plaintiff shall file a first amended complaint as described in this court's order filed  
3 October 27, 2021. If plaintiff fails to file a timely first amended complaint, this court will  
4 recommend this action be dismissed without prejudice.

5 Dated: March 30, 2022

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9 DEBORAH BARNES  
10 UNITED STATES MAGISTRATE JUDGE  
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